



January 15, 2015

Mr. David Timberger
Director
General Law Division
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

OR2015-00892

Dear Mr. Timberger:

You ask whether certain information is subject to required public disclosure under the Public Information Act (the "Act"), chapter 552 of the Government Code. Your request was assigned ID# 550228 (PIR No. 15-19009).

The Texas Commission on Environmental Quality (the "commission") received a request for all records related to work performed by two firms to clean the apartment of a specified individual. You state you have released some information to the requestor. You claim the submitted information is excepted from disclosure under sections 552.107 and 552.111 of the Government Code. You also state release of the submitted information may implicate the proprietary interests of third parties. You state you notified the third parties of the request and of their right to submit arguments to this office as to why their information should not be released. *See* Gov't Code §§ 552.304 (interested party may submit written comments stating why information should or should not be released), .305(d); *see also* Open Records Decision No. 542 at 3 (1990) (statutory predecessor to section 552.305 permits governmental body to rely on interested third party to raise and explain applicability of exception in the Act in certain circumstances). We have considered the exceptions you claim and reviewed the submitted information.

Initially, we note some of the requested information may have been the subject of a previous request for information, as a result of which this office issued Open Records Letter No. 2014-23518 (2014). There is no indication the law, facts, or circumstances on which the

prior ruling was based has changed. Accordingly, to the extent the requested information is identical to the information previously requested and ruled upon by this office in Open Records Letter No. 2014-23518, the commission must continue to rely on the prior ruling as a previous determination and withhold the information at issue in accordance with that ruling. *See* Open Records Decision No. 673 (2001) (so long as law, facts, and circumstances on which prior ruling was based have not changed, first type of previous determination exists where requested information is precisely same information as was addressed in a prior attorney general ruling, ruling is addressed to same governmental body, and ruling concludes that information is or is not excepted from disclosure). To the extent the submitted information is not encompassed by this previous ruling, we consider your arguments against disclosure.

Section 552.101 of the Government Code excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision."¹ Gov't Code § 552.101. Section 552.101 encompasses information other statutes make confidential, such as section 81.046(b) of the Health and Safety Code, which provides as follows:

(b) Reports, records, and information relating to cases or suspected cases of diseases or health conditions are not public information under [the Act], and may not be released or made public on subpoena or otherwise except as provided by Subsections (c), (d), and (f).

Health & Safety Code § 81.046(b). You explain the requested information concerns the decontamination of the residence of an individual who was diagnosed with the Ebola virus disease. Thus, we find the requested information relates to a case or suspected case of Ebola and section 81.046 governs the release of the information at issue. We understand none of the release provisions of section 81.046 are applicable. Accordingly, we determine the commission must withhold the requested information under section 552.101 of the Government Code in conjunction with section 81.046(b) of the Health and Safety Code.²

This letter ruling is limited to the particular information at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other information or any other circumstances.

¹The Office of the Attorney General will raise a mandatory exception on behalf of a governmental body, but ordinarily will not raise other exceptions. *See* Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

²As our ruling is dispositive, we need not address your arguments against disclosure.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For more information concerning those rights and responsibilities, please visit our website at http://www.texasattorneygeneral.gov/open/orl_ruling_info.shtml, or call the Office of the Attorney General's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Act may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,



Daniel Olds
Assistant Attorney General
Open Records Division

DO/dls

Ref: ID# 550228

Enc. Submitted documents

c: Requestor
(w/o enclosures)

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